

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRUCE DANIEL MULLIGAN, )  
 )  
Plaintiff, ) CASE NO. C09-0842-RSL  
 )  
v. )  
 ) REPORT AND RECOMMENDATION  
DR. DAVID KENNEY, *et al.*, )  
 )  
Defendants. )  
\_\_\_\_\_ )

This is a *pro se* civil rights action under 42 U.S.C. § 1983. Plaintiff Bruce Mulligan is a Washington prisoner who is currently incarcerated at the Monroe Correctional Complex - Twin Rivers Unit. Plaintiff filed this action in June 2009 to seek redress for alleged violations of his Eighth Amendment rights and the Americans with Disabilities Act arising out of defendants' refusal to accommodate his mental disorder which is known as avoidant paruresis/shy bladder.

Plaintiff has been actively litigating this case since its inception. However, on March 2, 2011, plaintiff submitted to this Court for consideration a motion to dismiss this case pursuant to Rule 41 of the Federal Rules of Civil Procedure. Plaintiff indicates in his motion

01 that due to the complexity of the case, and his lack of legal counsel, he seeks to have the case  
02 dismissed, without prejudice, to allow him time to retain proper legal representation.<sup>1</sup>  
03 Defendants have filed a response to plaintiff's motion in which they indicate that they have no  
04 objection to dismissal of this action without prejudice.

05 As plaintiff believes he is unable to proceed at this time, and as defendants have no  
06 opposition to plaintiff's request that this action be dismissed without prejudice, this Court  
07 recommends that plaintiff's motion be granted and that this action be dismissed, without  
08 prejudice, pursuant to Rule 41(a)(2).<sup>2</sup> A proposed order accompanies this Report and  
09 Recommendation.

10 DATED this 22nd day of April, 2011.

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13 Mary Alice Theiler  
14 United States Magistrate Judge  
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20 <sup>1</sup> This Court previously denied a request by plaintiff to have counsel appointed to  
21 represent him in this matter. (See Dkt. Nos. 15 and 29.)

22 <sup>2</sup> Plaintiff requests dismissal under Rule 41(a)(1). However, because defendants  
previously filed an answer in this action, Rule 41(a)(2) governs plaintiff's request for dismissal.